

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION**

**REGULAR Meeting #1729 – December 12, 2017**

***MEETING MINUTES***

**\*\*\*\*\*Minutes are not official until approved at a subsequent meeting \*\*\*\*\***

The Meeting was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 6:30 P. M. by Chairman Ouellette

**PRESENT:**    **Regular Members:**    Joe Ouellette (Chairman), Michael Kowalski, Tim Moore, and Dick Sullivan.

**Alternate Members:**    Frank Gowdy, and Marti Zhigailo.

**ABSENT:**    **Regular Members:**    Jim Thurz

**Alternate Members:**    Both Alternate Members present

Also present was Town Planner Whitten.

**GUESTS:**    Richard P. Pippin, Jr. and Kathy Pippin, Board of Finance; Al Rodrigue

**ESTABLISHMENT OF QUORUM:**

A quorum was established as four Regular Members and two Alternate Members were present at the Call to Order. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening. Following in accordance with the service rotation schedule Alternate Member Zhigailo would also join the Board regarding discussion and action on all Items of Business this evening as well.

**LEGAL NOTICE:**    None

**ADDED AGENDA ITEMS:**    None

**PUBLIC PARTICIPATION:**

**Al Rodrigue, 6 Mahoney Road:** Mr. Rodrigue is appearing before the PZC to report his displeasure with actions taken regarding 25 Mahoney Road. Mr. Rodrigue reported this property is just down the street from his own property; it's depreciating the property values of the neighborhood. Mr. Rodrigue reported he understands staff was thrown off the property; it's taken 22 months already. If we allow one person to get away with this kind of activity it will become contagious. If we can't have teeth in the regulations why have any? Mr. Rodrigue cited the problems at 20 Margaret Drive; it's frustrating for the neighbors. Mr. Rodrigue suggested the Town should put a lien on the property. We have the ability in the Statutes, why not apply them? Mr. Rodrigue cited other property owners who respond within 30 days of notification of notification of issues.

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Chairman Ouellette recalled that in the past the ZEO had provided the Commission with a summary of outstanding zoning violations; he cited this presentation tonight was news to him and the rest of the Board. Chairman Ouellette requested a report of outstanding violations. Town Planner Whitten cited the past staffing levels. She reported the Town has a fines ordinance for zoning; it's not a Statute. To follow up on a fines letter we need a fines Hearing Officer; that position is presently vacant. Chairman Ouellette volunteered to meet with Town Planner Whitten and staff to work on a resolution.

Town Planner Whitter suggested with the casino coming it might be the time to hire a blight/zoning enforcement officer. Without a Hearing Officer staff can't go beyond the Cease & Desist Order. Town Planner Whitten reported she has been requesting the filling of staff positions for months; Chairman Ouellette suggested the first step is to get our BOS liaison on board and elevate it through him. Chairman Ouellette cited the need to have consequences to get people to take action. Commissioner Gowdy questioned if there was a lack of communication between this Commission and the Board of Selectmen (BOS)? Town Planner Whitten suggested the Commission members have the right to talk to the BOS on issues they feel appropriate.

Discussion followed regarding the current process to seek compliance. Town Planner Whitten noted a Hearing Officer should be available if the resident wants to appeal the implementation of fines. Mr. Rodrigue reported that previously the property was owned by the mother; at that time there were multiple junk cars, trailers, old buses, and boats stored on the property. After she passed the property went through Probate and was purchased by a son. Now he's bringing his stuff onto the property; it seems to be getting worse. Mr. Rodrigue suggested the Commission shouldn't fault Town Planner Whitten; there is only so much she can do without having the proper back-up. He indicated he came before the Commission this evening to cite his frustration.

Town Planner Whitten reported she'll try to get the position of Hearing Officer filled, but without the Hearing Officer available staff can't send out the fines citation. Town Planner Whitten indicated she'll ask ZEO Tyksinski to prepare a violation report for the Commission.

Commissioner Gowdy questioned if legal counsel had been informed? Town Planner Whitten reported staff can't go to legal counsel without first going to the BOS.

**APPROVAL OF MINUTES/November 28, 2017:**

**MOTION: To ACCEPT the Minutes of Regular Meeting #1728 dated November 28, 2017 as written.**

**Moore moved/Sullivan seconded/DISCUSSION: None.**

**VOTE: In Favor: Kowalski/Moore/Sullivan  
Opposed: No one**

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**Abstained: Ouellette**

**RECEIPT OF APPLICATIONS:**

Chairman Ouellette noted receipt of the following Application:

1. **23 Thompson Road Enterprises, LLC** – Site Plan Approval for installation of pole mounted lights at 23 Thompson Road. [M-1 Zone; Map 82, Block 18, Lot 9]

**PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE:**

Nothing presented this evening.

**CONTINUED PUBLIC HEARINGS:** None

**NEW PUBLIC HEARINGS:** None

**NEW BUSINESS: 23 Thompson Road Enterprises, LLC** – Site Plan Approval for installation of pole mounted lights at 23 Thompson Road. [M-1 Zone; Map 82, Block 18, Lot 9] (*Deadline for decision 2/15/2018*):

Chairman Ouellette read the description of this item of business. Appearing to discuss this Application was Joe Ussery, of J. R. Russo & Associates, LLC, representing the owners, the Chapman Family.

Mr. Russo referenced the property located at 23 Thompson Road; he indicated the plan is to install 8 new lighting fixtures 20 feet tall in the locations identified on the photometric plan. Mr. Ussery indicated 4 of the lights will have full cut off shields, while the 4 in the back are flood lights to illuminate the loading docks. The Commission discussed the regulation requirements for full cut off fixtures, including the flood lights. Commissioner Kowalski noted the product documentation provided in the Commissioner's packets indicates cut off shields are available. Chairman Ouellette suggested the manufacturer indicates there is a way to meet the regulations while still providing for the needs of the client. Chairman Ouellette questioned if the lights will be on a timer? Mr. Ussery suggested the lights will only be on during the hours of operation but he didn't have that information available. The Commission agreed to requiring the full cut off shields as a condition of approval.

Commissioner Kowalski questioned if there was any existing lighting on the building? Mr. Ussery didn't feel there were any building lights; Town Planner Whitten reviewed the photometric plan and found nothing referenced.

**MOTION TO APPROVE Application for Site Plan Modification by owner 23  
Thompson Road Enterprises, LLC for installation of pole mounted  
lights at 23 Thompson Rd, in the M-1 zone. Map 082, block 18, Lot 09**

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**Referenced Plans:**

- **Lighting Plan** – Sheet 1 of 1 for 23 Thompson Road enterprises, LLC . 23 Thompson Road, East Windsor, CT, Map 82, Blk 18 Lot 09, Zone M1”, prepared by J.R. Russo & Associates, 1 Shoham Road, East Windsor, CT 06088. (860) 623-0569, Fax (860) 623-2485 Scale 1” = 40’, dated 1/30/16
- **Photometric Plan** – by Visual dated 11/16/17

**-Conditions which must be met prior to signing of mylars:**

1. A paper copy of the final approved plans (revisions included) shall be submitted to the Town Planner for review and comment prior to the submission of final plans.
2. All final plans submitted for signature shall require the seal and live signature of the appropriate professional(s) responsible for preparation of the plans.
3. The conditions of this approval shall be binding upon the applicant, land owners, and their successors and assigns. A copy of this approval motion shall be filed in the land records prior to the signing of the final plans.

**Conditions which must be met prior to the issuance of any permits:**

4. One set of final mylars, with any required revisions incorporated on the sheets shall be submitted for signature of the Commission. Set shall be filed in the Planning and Zoning Department.
5. A cash (escrow) or passbook bond (made out to the applicant AND the Town of East Windsor) shall be submitted for sedimentation and erosion control maintenance and site restoration during the **construction of the project if warranted**. Any funds that may be withdrawn by the Town for such maintenance or restoration shall be replaced within five (5) days or this permit shall be rendered null and void. The applicant's engineer shall submit an estimated cost of the E & S controls to the Town Engineer. The amount of said bond shall be determined by the Town Engineer.
6. A zoning permit shall be obtained prior to the commencement of any site work

**Conditions which must be met prior to certificates of compliance:**

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7. Final grading and seeding shall be in place or a bond for the unfinished work submitted.
8. Final as-built survey showing all structures, pins, driveways and final floor elevations as well as spot grades shall be submitted.
9. All public health and safety components of the project must be satisfactorily completed prior to occupancy. In cases where all of these components have not been completed, the Zoning Official may issue a Certificate of Zoning Compliance provided a suitable bond is retained for any remaining site work.

**General Conditions:**

10. In accordance with Ch 900.3h of the Zoning Regulations, any approval of a site plan application shall commence the construction of buildings within **one year from the date of approval** and **complete all improvements within five years of the date of approval**, otherwise the approval shall become null and void, unless an extension is granted by the Commission.
11. This project shall be constructed and maintained in accordance with the filed plans. Minor modifications to the approved plans that result in lesser impacts may be allowed subject to staff review and approval.
12. Any modifications to the proposed drainage or grading for the site plan is subject to the approval of the town engineer.
13. Additional erosion control measures are to be installed as directed by town staff if field conditions necessitate.
14. By acceptance of this approval and conditions, the applicant, owner and/or their successors and assigns acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval.

**Additional Condition:**

- 15 **Shield to be added to four rear blood lights.**

Moore moved/Sullivan seconded/**DISCUSSION:** None.

VOTE:       **In Favor:       Ouellette/Kowalski/Moore/Sullivan/Zhigailo**  
                  **No one Opposed/No Abstentions**

**OLD BUSINESS: 20 Margaret Drive – Zoning Compliance Issues:**

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Town Planner Whitten summarized for the Commission the ongoing issue occurring at the Board of Selectmen's Meeting regarding activity at 20 Margaret Drive. For some time there have been accusations of a business operating out of 20 Margaret Drive; at this point the outstanding issue is if the owner parks a 1 ½ ton pickup at the property. Town Planner Whitten referenced ZEO Tyksinki's memo which addresses Section 404.j of the Zoning Regulations; also attached is ZEO Tyksinki's research regarding vehicle information (*See Attachment A – ZEO Tyksinski's memo*)

Lengthy and convoluted discussion followed as the Commission grappled with regulation language vs. vehicle description information. Regulation language would seem to prohibit parking any private and/or service-related pick-ups at a private residence. The Commission considered residential use vs. business use vs, farm trailers vs. private lawn equipment. The word "capacity" seems to be nebulous language as it can relate to the weight of the vehicle unloaded or loaded, or with or without additional equipment.

Discussion turned to Mr. Brown's use of the property as a business location. Town Planner Whitten suggested 20 Margaret Drive is the location of Loading Dock Central. She cited the frustration of the neighbors as well as staff frustration trying to resolve the issue. Commissioner Zhigailo felt Mr. Brown was running a business out of his home with employees coming and going. She suggested everyone should have a place of solitude and refuge in a residential area; she suggested it's a shame it's gotten this far. Commissioner Gowdy agreed.

Commissioner Sullivan suggested he would like to see what other surrounding towns are doing. Town Planner Whitten noted staff has also been receiving complaints about noise, both from vehicles coming to and leaving the site and complaints about noise from wood chippers and chain saws. She noted the Town has no noise ordinance; if an ordinance were created now Mr. Brown would be grandfathered in. The creation of a noise ordinance requires the Town's purchase of a noise meter, and then someone must be trained to operate the meter, and the staff certification must be renewed periodically.

**Jim Martino, 22 Margaret Drive**, requested to speak. Chairman Ouellette suggested discussion must be germane to the Commission's task of interpreting the vehicle size. Mr. Martino reported Mr. Brown has the one larger truck, and 2 more he switches off. Mr. Martino noted he's spoken with Town Planner Whitten and ZEO Tyksinski who haven't been able to come up with an answer. Mr. Brown driving up and down the street is an issue; the bottom line is Mr. Brown is still running a business at 20 Margaret Drive. Mr. Martino reported Town Planner Whitten retracted Mr. Brown's Cease & Desist Order; Town Planner Whitten disagreed; Mr. Martino questioned if Town Planner Whitten was calling him a liar? Mr. Martino reported Mr. Brown had an excavator running every day in June, July, and August; 3 days ago he ran his blower at high speed causing significant noise. The quality of life has deteriorated. Mr. Martino felt Mr. Brown still has a lot of violations which the neighbors see; he felt Mr. Brown has taken this to a level Mr. Martino hasn't seen before. Mr. Brown has put up no trespassing signs

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on his side of the property; he's nailed them to trees. Mr. Martino noted many of the neighbors went to the BOS as they feel they are being disrespected. Chairman Ouellette questioned the point of going to the BOS as this is the Commission that needs to deal with the zoning regulations? Mr. Martino continued, noting Mr. Brown's stepson comes to the property, parks his car and takes out another vehicle with a trailer and an excavator; this can happen 2 or 3 times a day; it goes on and on. Mr. Martino suggested Mr. Brown doesn't live there; the person who comes in the morning doesn't live there; maybe the Commission can get a detective to check on that. Town Planner Whitten reiterated the legal address is 20 Margaret Drive. Mr. Martino reported Mr. Brown's vehicles are diesel; he runs them for a half an hour in the Winter outside Mr. Martino's window. Mr. Martino suggested this is a guy who also has wetlands issues. Town Planner Whitten suggested Mr. Martino's comments are getting off the vehicle issue.

Chairman Ouellette queried the Commissioners for suggestions. Commissioner Zhigailo suggested reviewing the definition of home occupations vs. construction businesses; she felt home businesses were meant to be accountants, etc. Town Planner Whitten clarified that anyone can have an office in their home. Commissioner Zhigailo suggested Mr. Brown has a construction vehicle; Town Planner Whitten clarified that Mr. Brown has a commercial vehicle. She suggested this issue has been going on for a long time; there are issues on both sides. Chairman Ouellette was puzzled as to why this issue has been elevated to the Board of Selectmen? Town Planner Whitten suggested one of the Selectman requested the issue be added to the Selectmen's agenda but the fact that the public was asked to speak was inappropriate.

The Commission agreed the issue is difficult; the regulations lack a definition of capacity to clarify vehicle size. Town Planner Whitten indicated she'll do more research and add this on the January 2018 PZC Meeting under Unfinished Business. The Commission and staff are unable to take any action this evening.

**OTHER BUSINESS:** None.

**CORRESPONDENCE:** None.

**BUSINESS MEETING/(1) Discussion on HIZ:**

Town Planner Whitten advised the Commission this text amendment has been referred to CRCOG.

**BUSINESS MEETING/(2) Discussion on Aquifer Protection Regulations:**

Nothing to report this evening.

**BUSINESS MEETING/(3) General Discussion of Planning Issues:**

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Town Planner Whitten suggested staff has been discussing sending Commissioners digitalized packets rather than paper packets; the consensus of the Commissioners was to continue the paper packets. Town Planner Whitten suggested staff is considering putting the packet information on the website for the residents as well.

Town Planner Whitten suggested the Commission needs to review sign regulations to include LED signage; numerous requests have been received for the use of LED signs. Federal case law must be reviewed as language must be content neutral.

Chairman Ouellette cited the Commission was working on a task list; he suggested the need for prioritization. Town Planner Whitten noted the previous work done on the Warehouse Point study but the project has stalled due to lack of funding to complete the stormwater review – Town Engineer Norton hasn't the time to assist with that portion of the project; regulations then need to be written. Town Planner Whitten cited the need to complete the Warehouse Point project before work begins on the casino and the Transit Oriented Development in Windsor Locks. Chairman Ouellette suggested staff concentrate on completing the Warehouse Point study prior to working on sign regulations.

**BUSINESS MEETING/(4) Signing of Mylars/Plans, Motions:**

Nothing signed this evening;

**ADJOURNMENT:**

Commissioner Sullivan wished everyone a Merry Christmas, Happy Holidays, and joy in whatever holiday you celebrate. The Commission concurred.

**MOTION: To ADJOURN this Meeting at 8:40 p.m.  
Sullivan moved/Moore seconded/VOTE: In Favor: Unanimous**

Respectfully submitted,

  
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Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission

See Attachment A





PZC - 12/12/2017 Attachment A

## TOWN OF EAST WINDSOR

### PLANNING AND DEVELOPMENT

Planning, Zoning, Zoning Board of Appeals, Conservation/Inland Wetlands, Economic Development

11 Rye Street, Broad Brook, CT 06016

PHONE: (860) 623-6030

<http://www.eastwindsorct.gov>

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December 12, 2017

To: Laurie Whitten

From: Matt Tyksinski

Subject: 20 Margaret Drive-Commercial Truck Weight

One of the issues that has been consistent within the zoning issues surrounding 20 Margaret Drive and Mr. Brown is the issue of having a commercial truck on the property, as well as its capacity. There is a question as to whether capacity refers to the truck's payload capacity or its curb weight. Upon further review, I believe that it refers to its payload capacity but I did research concerning both payload capacity and curb weight. According to **Section 404.j** of The Town's Zoning Regulations,

"Off-street parking or garaging of resident's vehicle(s) are subject to the following restrictions

1. **Not more than one commercial vehicle** with or without commercial markings
2. In any case, no trucks, buses, trailers, construction equipment or any other vehicles exceeding **one and a half-ton capacity** excluding recreational vehicles.
3. The sale of no more than 2 vehicles per year that were previously or currently registered at that property.

Mr. Brown is claiming that his truck, a 2014 GMC Sierra 3500, has under a 1.5 ton capacity. I have attached both his documentation as well as the research that I have performed. For reference 1.5 tons is equivalent to 3,000 lbs.

During my research I found that the **curb weight** of a GMC Sierra 3500 ranges from 5,775-7,239. In addition, I found that the **payload capacity** ranges from 4,078-6,244 (According to a Google Search). In addition, when looking at a NADA Guide for a 2014 GMC Sierra 3500 I found that the **specific curb weight** is 6,612 lbs. and the **max payload** is 4,188 lbs. These numbers were retrieved using two independent sources.

I have also attached Mr. Brown's research, including an email and an attached link from a Business Development Manager at Balise Chevrolet Buick GMC in Springfield. The research refers to half-ton, three-quarter ton and one-ton classifications for pickup trucks and SUVs, noting that they normally underrepresent their payload capacities. Mr. Brown is stating that his 2014 GMC Sierra 3500 is a one ton truck and is therefore under the 1.5 ton limit.

This is the information I have to this date. I have attached the email and separate attached document from Mr. Brown as well as the documents that I have researched and separated into

two separate piles. I trust that the Commission can clarify this issue so that we can move forward.

Matt Tyksinski  
Town of East Windsor  
Assistant Town Planner  
Zoning Enforcement Official/Wetlands Agent